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26 UNITED STATES DISTRICT COURT
27 NORTHERN DISTRICT OF CALIFORNIA
28 SAN JOSE DIVISION

29 CLRB HANSON INDUSTRIES, LLC d/b/a
30 INDUSTRIAL PRINTING, and HOWARD
31 STERN, on behalf of themselves and all others
32 similarly situated,

33 Plaintiffs,

34 vs.

35 GOOGLE, INC.,

36 Defendant.

Case No. C 05-03649 JW PVT

**JOINT MEMORANDUM IN OPPOSITION
TO BERNARD MADOFF D/B/A
JONATHAN LEE RICHES'S MOTION TO
INTERVENE AS PLAINTIFF UNDER
RULE 24(A)2 AND 24(B); AND MOTION
FOR LEAVE TO FILE A BRIEF OF
AMICUS CURIAE**

1 Plaintiffs CLRB Hanson Industries, LLC and Howard Stern ("Plaintiffs"), and Defendant
 2 Google Inc. ("Google") jointly submit this memorandum in opposition to Mr. Riches's Motion to
 3 Intervene as Plaintiff. Mr. Riches is not a class member and has no interest in this case sufficient to
 4 permit intervention.
 5

6 Mr. Riches attempts to intervene pursuant to Rules 24(a)(2) and 24(b)(1) of the Federal Rules
 7 of Civil Procedure. Neither rule allows for his intervention. Rule 24(a)(2) provides that intervention
 8 is necessary where the intervenor:

9
 10 claims an interest relating to the property or transaction that is the subject of the
 11 action, and is so situated that disposing of the action may as a practical matter
 impair or impede the movant's ability to protect its interest, unless existing
 parties adequately represent that interest.

12 Here, Mr. Riches has no interest in plaintiffs' claims against Google or the settlement distribution,
 13 because he is not a class member. *See* Exhibit A (M. Sherwood Declaration ¶ 2). To the extent that
 14 Mr. Riches has related claims against Google, he may file them in a separate action. Allowing this
 15 case to go forward, and the settlement to proceed without his intervention will not interfere at all with
 16 Mr. Riches's ability to protect his interests.
 17

18 Mr. Riches also cites to Rule 24(b) as a basis for permissive intervention. Rule 24(b)(1)
 19 permits intervention to anyone who:

- 20 (A) is given a conditional right to intervene by a federal statute; or
 21 (B) has a claim or defense that shares with the main action a common question of
 law or fact.

22 Mr. Riches cites to no federal statute that grants him a conditional right to intervene – because there is
 23 no such statute. His only basis for alleging that he has "a common vested interest" in this case is that
 24 he possesses "documents, emails, exhibits, and photographs related to this case," he has "expert
 25 information to provide this court," and he is "a convicted computer hacker with knowledge about
 26 Googles [sic] systems and hard drives." Mr. Riches does not allege that he has a claim against Google
 27
 28

1 that shares with plaintiffs or the class a common question of law or fact. Therefore, permissive
2 intervention is also unavailable.

3 Accordingly, Mr. Riches's motion to intervene must be denied.

4 Respectfully submitted,

5 Dated: June 18¹⁹th, 2009


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By 
Daralyn Durie
Attorneys for Defendant Google Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the date written above, that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. The Court or the CM/ECF system will send notification of such filings to all CM/ECF participants, as follows:

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and I hereby certify that I have mailed by United States Postal Service, postage prepaid, the documents to the following non CM/ECF participants:

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Jami Grounds